

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

COLLETTE DELBRIDGE, individually
and on behalf of others similarly situated,

Plaintiff,

v.

KMART CORPORATION,

Defendant.

No. C 11-02575 WHA

**ORDER DENYING REQUEST
FOR CONTINUANCE**

The Court has read the June 18 letter from plaintiff's counsel. A letter is not a proper motion, nor is it supported by any sworn declaration.

As for Kmart, the witnesses are under a court order to appear and Kmart shall ensure that they are available on the dates scheduled. The vague statement in paragraph four of the letter is insufficient to warrant a continuance.

As for plaintiff's counsel, there is no reason why at least one of her counsel cannot be available to cross-examine witnesses at the currently-scheduled hearing. Regarding Mr. Matthew Righetti, the June 18 letter does not state that the family vacation was pre-paid *prior to the June 14 order* setting the Rule 60 evidentiary hearing date, nor was the scheduling issue raised at the June 6 motion hearing. Regarding Mr. Michael Righetti, the letter does not establish that significant expense would be required to modify his plans, nor was this scheduling issue raised at the June 6 hearing. Please remember that one continuance on this has already been granted to plaintiff's counsel to accommodate Mr. McInerney.

1 In addition, the alternate dates proposed by the parties cannot be accommodated into the
2 Court's schedule.

3 On a proper, joint motion made soon and supported by sworn declarations, the Court
4 would consider the alternate dates of July 29–31. Until, if ever, the Court moves the hearing
5 dates, however, the Rule 60 evidentiary hearing remains scheduled for July 2–3 — on pain of
6 denial of the Rule 60 motion.

7 Please do not send correspondence to the Court on important issues like this in letter
8 format. The letter motion is **DENIED**.

9
10 **IT IS SO ORDERED.**

11
12 Dated: June 19, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE